

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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BRYAN GARCIA-SILVESTRI,

Plaintiff,

COMPLAINT

-against-

VICENTE TORRES and
CHRISTOPHER GRUKA,

Plaintiff Demands a
Trial by Jury

Defendants.

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Plaintiff, by his attorneys Sivin, Miller & Roche, LLP, complaining of
defendants, alleges as follows, upon information and belief:

THE PARTIES AND JURISDICTION

1. That at all times herein mentioned, plaintiff was and is a citizen of the State of
New York.

2. That at all times herein mentioned, plaintiff was incarcerated at Collins
Correctional Facility (Collins), in Collins, NY, and was under the care, custody, and
control of the New York Department of Corrections and Community Supervision
(DOCCS).

3. That at all times herein mentioned, defendants were and are citizens of the
State of New York.

4. That at all times herein mentioned, defendant Vicente Torres (Torres) was a
correction officer employed at Collins by DOCCS.

5. That at all times herein mentioned, Torres was acting within the course and
scope of his employment as a DOCCS correction officer.

6. That at all times herein mentioned, Torres was acting under color of state law.

7. That at all times herein mentioned, defendant Christopher Gruka (Gruka) was a correction officer employed at Collins by DOCCS.

8. That at all times herein mentioned, Gruka was acting within the course and scope of his employment as a DOCCS correction officer.

9. That at all times herein mentioned, Gruka was acting under color of state law.

10. That this Court has jurisdiction over this action in that the action arises under 42 USC § 1983 and alleges violations of plaintiff's civil rights, including rights guaranteed under the Eighth Amendment to the United States Constitution.

11. That venue is proper in the Western District of New York, which is where the events underlying this lawsuit occurred.

THE FACTS

12. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth at length herein.

13. That on March 16, 2021, inside Collins, Torres and Gruka, acting collectively and in concert with each other, brutally assaulted and battered plaintiff by, among other things, punching and kicking plaintiff and slamming plaintiff to the floor.

14. That the aforesaid actions of Torres and Gruka were without any legal justification and not in furtherance of any legitimate penological interest.

15. That Torres and Gruka observed the aforesaid actions by their fellow officer, had a reasonable opportunity to intervene to prevent and/or stop those actions, but deliberately failed and refused to take any steps to do so.

16. That the aforesaid actions by Torres and Gruka were intentional, sadistic, and malicious in nature.

17. That as a result of the aforementioned actions of Torres and Gruka, plaintiff sustained physical and psychological injuries, including a broken leg that required surgical repair, endured and will continue to endure pain and suffering and loss of enjoyment of life, and was otherwise damaged.

FIRST CAUSE OF ACTION
(42 USC § 1983: Eighth Amendment)

18. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth at length herein.

19. That the aforementioned acts by defendants were in violation of the rights guaranteed to plaintiff under the Eighth Amendment to the US Constitution to be free from cruel and unusual punishment.

20. That as a result thereof, plaintiff is entitled to recover damages from defendants pursuant to 42 USC § 1983.

WHEREFORE, plaintiff seeks judgment against defendants, and both of them, for compensatory damages and punitive damages in an amount to be determined by the trier of fact, and plaintiff also seeks attorney's fees against both defendants pursuant to 42 USC § 1988, and plaintiff seeks interest, costs, and disbursements of this action.

Dated: New York, New York
June 27, 2022

Yours, etc.
Sivin, Miller & Roche, LLP

s/ Edward Sivin
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